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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,268	01/24/2000	Glenn H. Bostock	720a	6942

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EXAMINER

AMIRI, NAHID

ART UNIT PAPER NUMBER

3679

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/490,268

Applicant(s)

BOSTOCK, GLENN H.

Examiner

Nahid Amiri

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-39 and 60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-39 and 60 is/are rejected.
- 7) ☒ Claim(s) 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Response to Amendment

In view of Applicant's Amendment received 27 June 2005, amendments to the claims have been entered. Claim 1-32 and 40-59 are canceled. Claims 33-39 and 60 are pending.

The indicated allowability of claims 33-39 and 60 is withdrawn in view of the reference to US Patent No. 5,570,554 Searer. Rejections based on the cited reference follow.

### *Claim Objections*

Claim 36 is objected to because of the following informalities: claim 36 is depending from canceled claim 23. Therefore, applicant should change the dependency of claim 36 to one of the currently pending claims. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

DS  
Claim 37 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 37, lines 2-3, recite "**wherein said structure comprises <sup>an</sup> elevator**". This raises the question of whether the combination or subcombination is being claimed because the "structure" was previously set forth only as intended use. Therefore, the Examiner will examine the claim as best understood and continue to treat the claim as a subcombination.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,570,554 Searer.**

In regard to claim 33: Searer discloses a plurality of interlocking flooring panels (12) (Figs. 1-2) each of the panels including a front side and rear side, a first edge (7) having a tongue (38) extending lengthwise and projecting outwardly substantially coplanar with the panel piece (14), a first flange (40) positioned between the tongue (38) and rear side and a second flange (40) positioned between tongue (38) and front side, a second edge (8) positioned opposite of first edge (7) and having groove (26) extending lengthwise therealong, the groove (26) having a rear leg (18) positioned to rear side and a front leg (32) positioned in spaced relationship to rear leg (18), a base extending between legs (18 and 32), the first flange (40) engages the rear leg (18), the tongue (38) is sized so as to remain in spaced apart relation away from the base, the second flange (40) is sized so as to remain in spaced apart relation away from the front leg (32), and the tongue (38) of one of the panels (14) is captured between the front and rear leg (18 and 32) of the other panel (12).

In regard to claims 34-35: Searer discloses the claimed invention (Figs. 1-2) including the tongue (38) which extends substantially along the entire length of the first edge (7), and the groove (26) which extends substantially along the entire length of the second edge (8).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 36, 37 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Searer.**

In regard to claims 36 and 37: Searer discloses the claimed invention (Fig. 2) (column 5, lines 12-14) having a plurality of nails (22) extending through the rear leg (18). Searer does not disclose the pane panel having a plurality of apertures extending through the rear leg positioned in spaced apart relation lengthwise along the rear leg for receiving fasteners therethrough. Apertures are known in the art for receiving the fasteners. Therefore, it would have been an obvious matter of design choice to provide a plurality of spaced apart apertures along the rear leg prior of applying the plurality of nails in order to fasten the floor panel to a substructure because it appears that the invention would perform equally well with Searer's nails which minimize the cost and labor, and it would have been an obvious to one of ordinary skill in the art at the time of invention was made to used the wall panel with structure of elevator in order to enclosed the exterior of the elevator.

In regard to claim 60: Searer discloses the structural limitation of applicant's invention as stated above in claim 33, but it silent as to the a method of installing the wall panel assembly onto a support structure. Since Sears has all the structure limitation of applicant's invention therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to install the panel pieces in the manner set forth as this is merely the natural progression of installation steps that would need to be followed to install the assembly of Searer.

**Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Searer as applied to claims 33-35 above, and further in view of US Patent No. 6,606,834 B2 Martensson et al.**


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In regard to claims 38 and 39: Searer discloses the claimed invention except the panel piece is formed from a laminate that comprises wood and non-wood materials. Martensson teaches (column 2, lines 1-3) the floor covering or wall panel is formed from laminate thermosetting, or cellulosic product such as wood fiber board, or chipboard particle board or veneer impregnated or coated with waterproofing material such as wax or a thermoplastic. It would have been obvious to one of ordinary skill in the art at the time of invention was made to form the panel of Searer from laminate as taught by Martensson in order to construct a waterproof floor panel.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nahid Amiri  
Examiner  
Art Unit 3679  
September 08, 2005



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600